

Memorandum of Agreement
Between
U.S. Environmental Protection Agency (EPA)
Office of Mission Support
And
Merit Systems Protection Board (MSPB)

1. Purpose

The purpose of this Memorandum of Agreement (MOA) between the Merit Systems Protection Board (MSPB) and the U.S. Environmental Protection Agency (EPA) is to outline the terms for MSPB's use of the Freedom of Information Act Online (FOIAonline) tool and identify associated EPA and MSPB responsibilities. FOIAonline fulfills the tracking and reporting requirements under the Freedom of Information Act (5 U.S.C. § 552, as Amended by Public Law No.104-231, 110 Stat. 3048).

2. Background

FOIAonline was developed through a voluntary partnership of Federal agencies to create a comprehensive, centralized electronic case management solution to help agencies implement the FOIA. Within FOIAonline, officials assign, track, and monitor tasks; calculate fees; generate reports; and store FOIA requests and responsive documents (both denied and released). These functions streamline and help automate business processes associated with MSPB FOIA responsibilities. FOIAonline will provide MSPB with a cost-effective, shared service that captures and automates the tracking and reporting requirements associated with FOIA processing. This MOA is for support and usage of the FOIAonline system for Fiscal Year (FY) 2021.

3. Scope

This MOA establishes EPA and MSPB responsibilities regarding support of the EPA Program Management Office (PMO) for FOIAonline. It addresses system use and support of services, and data migration activities provided by the EPA. Key stakeholders of this MOA include: EPA's Office of Mission Support Office of Enterprise Information Programs and MSPB.

4. Authorities

This agreement is authorized in accordance with the authority provided under:

- The Economy Act (31 U.S.C. §1535, 1536)
- The Freedom of Information Act (5 U.S.C. § 552, as amended by P.L. 104-231, 110 Stat. 3048) and the FOIA Improvement Act of 2016 (P.L. 114-185 (June 30, 2016))
- Memorandum for the Heads of Executive Departments and Agencies: Open Government Directive, M10-06 (December 8, 2009)

5. Roles and Responsibilities

This section outlines EPA's responsibilities in providing the agreed upon services to the MSPB. It also addresses MSPB's responsibilities as a FOIAonline Partner.

a. The EPA will:

General Activities:

- 1) Ensure FOIAonline availability to the public and Federal agencies meets or exceeds 99.5%. Availability equals the hours FOIAonline is accessible to public and Federal entities divided by the total hours in the measurement period less scheduled maintenance and hours when the system is not available due to deployment of version releases. Note: the total hours in the measurement period are equal to seven days at 24 hours per day for each week in the period. For purposes of this MOA, this measurement period is one year or 8,760 hours for non-leap years and 8,784 hours for leap years.
- 2) Maintain the FOIAonline security plan including a Privacy Impact Assessment with system operations and controls to conform to NIST 800-53R4 (Recommended Security and Privacy Controls for Federal Information Systems and Organizations)
- 3) Operate a Disaster Recovery (DR) solution that provides continuity of operations in instances where a failover alternative is needed. A description of the DR solution is located in the FOIAonline System Security Plan and available for review by agency security staff upon request. Our estimated time to resume operations once a decision is made to fail over to the DR site is currently four (4) hours.
- 4) Lead an inter-agency governance board (i.e., Advisory Board) made up of FOIAonline Partner agencies. Establish workgroups to address projects and tasks to improve the FOIAonline program (See: *Charter for FOIAonline Partnership Program* (revised October 28, 2015)).
- 5) Collaborate with other federal agencies to enhance the FOIAonline Program.
- 6) Negotiate system implementations with other federal entities that request to use FOIAonline and join the FOIAonline Partnership.
- 7) Manage the development, maintenance, and operation of FOIAonline.
- 8) Provide a full range of helpdesk support for technical questions and issues which will be accessible to all MSPB users, including users located in field offices.
- 9) Ensure that partner agencies have an opportunity to review project management documentation.
- 10) Execute and coordinate an Inter-Agency Agreement (IAA) for MSPB's transfer of funds prior to start of work.

- 11) Develop a budget that supports system operations and on-going enhancements and investments to provision and sustain the architecture and services necessary to provide optimal services while providing high value service to FOIAonline Partners.
- 12) Provide programmatic support to ensure the FOIAonline system works as effectively as possible for MSPB within the FOIAonline operational parameters.
- 13) Evaluate project progress and effectiveness including interoperability policies, practices and procedures, and testing reports.
- 14) Convene meetings of an interagency Executive Committee on an as-needed basis, and not less than one (1) time per year.
- 15) In the event of a system security incident, PMO staff will assess the potential impact and follow the Breach Policy of EPA as the managing partner, including informing MSPB Partner Point of Contact (POC) of the details, extent and status of the incident. (Security roles and responsibilities are spelled out in Section 6 below.)

b. MSPB will:

- 1) Transfer total funding of \$30,033 for FOIAonline system access and support. Funding transfers to the EPA will be in accordance with Section 10 of this MOA.
- 2) Identify the MSPB Disclosure Officer or designee to coordinate activities and serve as the main point of contact to address issues that arise. The MSPB FOIA Officer or designee will also participate in the governance of FOIAonline and associated program activities.
- 3) Identify a qualified staff person(s) to work with the EPA PMO staff for use of FOIAonline.
- 4) Include a link from the appropriate MSPB Internet page to direct public users to FOIAonline to submit requests and appeals electronically to MSPB or to gain access to previously released requests or records.
- 5) Participate in the decision-making process to develop additional FOIAonline functionality that meets established government-wide criteria and use that functionality when available.

6. Security

- A. EPA will not use, or access MSPB information maintained in FOIAonline except as authorized to provide the services set forth in this MOA.
- B. EPA will not use MSPB information maintained in FOIAonline to extract information concerning individuals therein for any purpose not specified by this MOA.
- C. All users must take steps to protect all transferred and stored data in accordance with the Privacy Act (5 U.S.C. § 552a), the Trade Secrets Act (18 U.S.C. § 1905), and the Unauthorized Access Act (18 U.S.C. §§ 2701 and 2710).
- D. EPA will comply with the Federal Information Security Management Act (FISMA), 44 U.S.C. Chapter 35, Subchapter II, as amended by the Federal Information Security Modernization Act of 2014 (Pub. L. 113-283); the Office of Management and Budget (OMB) circulars and memoranda,

such as Circular A-130, Managing Information as a Strategic Resource (July 28, 2016), and Memorandum M-06-16, Protection of Sensitive Agency Information (June 23, 2006); National Institute of Standards and Technology (NIST) publications; and the Federal Acquisition Regulations. These laws, directives, and regulations include requirements for safeguarding Federal information systems and personally identifiable information (PII) used in Federal agency business processes, as well as related reporting requirements. EPA recognizes and will implement the applicable laws, regulations, NIST publications, and OMB directives including those published subsequent to the effective date of this agreement.

- E. EPA is responsible for oversight and compliance of its contractors and agents. FISMA requirements apply to all Federal contractors, organizations, or entities that possess or use Federal information, or that operate, use, or have access to Federal information systems on behalf of an agency.
- F. EPA's and MSPB's staff and contractors must comply with the Rules of Behavior to which all staff who access FOIAonline are subject. The Rules of Behavior are contained in the Federal Docket Management System/FOIAonline System Security Package (SSP). The Rules of Behavior document include:
- Protect data in accordance with the Privacy Act of 1974.
 - Protect data in accordance with the FISMA.
 - Protect sensitive information from disclosure to unauthorized individuals or groups.
 - Acquire and use sensitive information only in accordance with the performance of assigned official government duties.
 - Dispose of sensitive information contained in hardcopy or softcopy, as appropriate.
 - Provide that sensitive information is accurate and relevant for the purpose for which it is collected, provided, and used.
 - Protect one's assigned access codes from disclosure.
 - Report security incidents and vulnerabilities to the appropriate agency organization.
 - Comply with the provisions of copyrighted software by not infringing upon or compromising (copy, distribute, hack, etc.) software of this system.
 - Use government equipment in accordance with the individual site/agency policies and procedures.
 - Comply with Computer Security Incident Response Capability (CSIRC) escalation and response.
- G. MSPB will ensure MSPB FOIAonline system users receive security training on the management and protection of sensitive and potentially sensitive information noting that their responsibilities include properly managing information within FOIAonline.
- H. In the event of a system security incident, such as a successful system intrusion resulting in a data breach, EPA will follow reporting guidelines issued by OMB M-17-12, Preparing for and Responding to a Breach of Personally Identifiable Information and as reflected in EPA's *Procedure for Responding to Breaches of Personally Identifiable Information* (EPA Classification Number: CIO 2151-P-02.2).

7. Duration of Agreement

This MOA is valid from October 1, 2020 through September 30, 2021.

8. Dispute Resolution Mechanism

Should disagreements arise on the interpretation of the provisions of this agreement or amendments and/or revisions thereto that cannot be resolved at the operating level, the area(s) of disagreement shall be stated in writing by each party and presented to the other party for consideration. If agreement or interpretation is not reached within 30 days, the parties shall forward the written presentation of the disagreement to respective higher officials for appropriate resolution.

If a dispute related to funding remains unresolved for more than 30 calendar days after the parties have engaged in an escalation of the dispute, disputes will be resolved in accordance with instructions provided in the Treasury Financial Manual (TFM) Volume 1. Part 2. Chapter 4700. Appendix 10.

9. Points of Contact

MSPB and EPA will assign the following key points of contact (POC) with the FOIA Program. The senior manager is an official representative and is authorized to act on the Agency's behalf.

MSPB Representative

Name: William D. Spencer
Title: Acting Executive Director, Chief FOIA Officer
Telephone: (202) [REDACTED]
Email: william.spencer@mspb.gov

MSPB Alternate

Name: D. Fon Muttamara
Title: Chief Privacy Officer
Telephone: (202) [REDACTED]
Email: fon.muttamara@mspb.gov

EPA Representative

Name: Jeffrey Wells, Director
Title: Office of Enterprise Information Programs
Telephone: 202-566-1706
Email: Wells.Jeffrey@epa.gov

EPA's Project Officer

Name: Tim Crawford
Title: Project Manager
Telephone: 202-566-1574
Email: crawford.tim@epa.gov

The budget/financial contacts for this agreement are:

MSPB

Name: Erma Ford
Telephone: 202- [REDACTED]
Email: erma.ford@mspb.gov

EPA

Name: Raven Arnold
Telephone: 202-566-1966
Email: Arnold.Raven@epa.gov

10. Transfer of Funds

Each partner agency is responsible for providing funding. Nothing in this agreement is intended to be a direct transfer of funds from MSPB to EPA. All transfers are to be affected through the Interagency Payment and Collection System (IPAC).

The MSPB will transfer funds to EPA in accordance with the following table:

Contributing/Sending Agency:	Merit Systems Protection Board
Address:	1615 M St NW Suite 500 Washington DC 20036
Treasury Account Symbol:	389 2021 2022 0100 000
Agency Location Code:	41000001
DUNS Number:	015908424
Type of Fund:	<input type="checkbox"/> One-Year <input checked="" type="checkbox"/> Two-Year <input type="checkbox"/> No Year
Total Dollar Amount:	\$30,033
Obligating Document Number:	
Receiving Agency:	U.S. Environmental Protection Agency
Address:	1200 Pennsylvania Avenue NW Washington, D.C. 20460
Treasury Account Symbol:	6820/210108
Agency Location Code:	68010727
Taxpayer Identification Number:	52-08-52695
DUNS Number:	029128894

Availability of Funds:

Each partner shall sign and return MOAs to the FOIAonline Program within one month of the period of performance start date. This MOA does not authorize or obligate the Parties to expend, exchange or reimburse funds, services, supplies, or transfer or receive anything of value, except under an IAA that complies with all applicable laws. No provision of this MOA shall be interpreted to require obligation or payment of funds in violation of the Anti-Deficiency Act, Title 31, U.S. Code, Section 1341, or other applicable laws.

11. Commencement/Amendment/Termination

This MOA will be expressly incorporated by reference into an IAA (EPA's funding document). This MOA shall remain in effect from the date of signing until the end of FY 2021 with a new IA to be signed annually to renew the agreement and provisioning of services. Amendments to the MOA will be affected by the mutual consent of the parties in writing and will be incorporated by reference into the IA.

12. Approvals

The following officials are authorized to bind their respective Department/Agency to this agreement:

EPA Official

Jeff Wells, Director
Office of Enterprise Information Programs
U.S. EPA

Date: _____

**JEFFREY
WELLS**

Digitally signed by
JEFFREY WELLS
Date: 2021.03.18
16:54:56 -04'00'

MSPB Official

William D. Spencer
Acting Executive Director, Chief FOIA Officer
MSPB

Date: _____

**William
Spencer**

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Spencer
Date: 2021.03.17 16:15:09
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